

LICENSE AGREEMENT

This License Agreement (hereinafter referred to as the "Agreement") is entered into as of the seventeenth (17th) day of October, 2017, by and between Woods Hole, Martha's Vineyard and Nantucket Steamship Authority (hereinafter referred to as the "Authority") and SeaStreak, LLC (hereinafter referred to as the "Licensee").

WHEREAS, Licensee desires to operate two seasonal passenger transportation services with its Motor Vessels *Martha's Vineyard Express* and *Whaling City Express*, supplemented from time to time with one of its SeaStreak or Commodore class vessels (in lieu of trips made with the *Martha's Vineyard Express* or the *Whaling City Express*) based upon demand and availability (hereinafter referred to as the "Vessels"), one service being directly between the State Pier in New Bedford Harbor, New Bedford, and the Authority's ferry terminals in Oak Bluffs and Vineyard Haven during portions of 2018, 2019 and 2020, and the second service being between the State Pier in New Bedford Harbor, New Bedford, and the Authority's ferry terminal in Nantucket during portions of 2018, 2019 and 2020 (hereinafter together referred to as the 'Services'); and

WHEREAS, the Authority is willing to consent to the provision of the Services under the conditions and provisions set forth herein;

NOW, THEREFORE, in consideration of the provisions hereof and the mutual promises contained herein, the parties agree as follows:

1. License Provided to Licensee by the Authority.

In the exercise of its discretion, as necessary or desirable to serve the purposes of chapter 701 of the Acts of 1960, as amended, the Authority hereby licenses Licensee to provide the Services, subject to the terms and provisions of this Agreement. This license is granted only to Licensee for such Services provided by the Vessels herein specified, and is not transferable or assignable to any other person, entity or vessel without the express written approval of the Authority. During the term of this Agreement, Licensee agrees that neither the Vessels nor any other vessel owned or operated by Licensee will be operated for hire between the mainland of The Commonwealth and the island of Nantucket, or between the mainland of The Commonwealth and the island of Martha's Vineyard, or between said islands, except in strict accordance with the terms and provisions hereof or the terms of another License Agreement entered into between the Authority and Licensee; and, further, that Licensee shall not enter into any contract or other commitment for the construction, purchase, lease or charter of any vessel intended to replace or supplement the Vessels in connection with the provision of the Services without first obtaining the Authority's written approval of such contract or other commitment.

2. Agreement to Provide the Services.

Safe operating conditions permitting and subject to SeaStreak's ability to continue to operate from State Pier in New Bedford Harbor, New Bedford, Licensee shall provide the Services in accordance with the schedule attached hereto and marked as Exhibit A. Any and all changes to Licensee's schedule of licensed trips shall be subject to the approval of the Authority. Licensee agrees that, in the event it anticipates that any four or more consecutive one-way trips (two round trips) of the Vessels will be cancelled for weather-related, mechanical or any other reason, or if any four or more consecutive one-way trips are cancelled, Licensee will notify the Authority as soon as reasonably possible of such anticipated or actual cancellations, as the case may be.

3. Limitation on the Services.

The Services provided by Licensee shall not include the carriage of motor vehicles, mopeds or freight, except for reasonable amounts of small packages and so-called "dolly freight" for delivery to and from the island.

4. Shoreside Facilities.

Licensee agrees that it shall obtain and comply with all applicable permits, licenses, approvals and regulations of federal, state and local authorities necessary for the operation of its shoreside facilities that are used in connection with the Services, including but not limited to all regulations promulgated by the Massachusetts Architectural Access Board regarding transportation terminals (521 CMR 18) as may be applicable to Licensee's operations. Licensee also agrees that it is not authorized to use the Authority's dockage facilities, wharves, piers, or any other property, either real or personal, in any way, except as may be otherwise provided for in the separate Dockage Facilities Agreement entered into between the parties and attached hereto as Exhibit C or by separate agreement between the parties.

5. License Fees, Access Fees and Reporting Requirements.

The Authority shall receive payments from Licensee for use of the Authority's facilities and for each passenger carried on the Vessels on a one-way basis between New Bedford and Martha's Vineyard, or vice versa, or between New Bedford and Nantucket, or vice versa, in the amounts set forth in the License and Access Fee Schedule attached hereto and marked as Exhibit B, which payments shall be retained by the Authority.

- (a) For the purposes of this Article, "passengers" shall not include employees of Licensee.
- (b) Licensee agrees to provide the Authority with monthly reports as to the number of passengers transported on the Vessels on a trip-by-trip basis. Each report will be provided to the Authority by the first week of the following month, and any

payment of License Fees due to the Authority based upon the passengers shown to have been transported in that report shall be due on the fifteenth (15th) day of that following month.

- (c) Licensee also agrees to permit the Authority, through its General Manager or any other person designated by the General Manager, to enter onto Licensee's property and facilities and to review Licensee's records and operations at any time to determine the accuracy of the aforesaid reports or to verify Licensee's compliance with its obligations under this Agreement.
- (d) Notwithstanding and without limiting any other provision of this Agreement, the Authority may terminate this Agreement whenever any report due under this Article is more than five (5) days overdue, or whenever any amount not reasonably disputed by Licensee to be due under this Article is more than seven (7) days overdue, provided that the Authority has given Licensee three (3) business days' notice that the said report or amount is overdue.

6. No Requirement to Provide or Use Authority Employees.

Licensee shall not be required to hire, nor shall the Authority be required to provide, any employee of the Authority for the provision of the Services hereunder.

7. Provisions Governing Sale of Tickets.

Licensee shall be solely responsible for the sale of passenger and bicycle tickets for passage aboard the Vessels. The Authority shall in no way be responsible for the sale of such tickets.

8. Recognition of the Authority's Statutory Responsibilities.

Licensee acknowledges that it is the statutory responsibility of the Authority to provide adequate transportation of persons and necessities of life for the islands of Nantucket and Martha's Vineyard. If the provision of the Services adversely affects the ability of the Authority to fulfill its statutory responsibilities, the Authority shall so notify Licensee and attempt to resolve the matter. If the matter is not so resolved within ten (10) days after the service of such notice, the Authority may terminate this Agreement immediately upon the expiration of the aforesaid ten (10) days. It is also acknowledged by Licensee that the Authority from time to time may change, in its sole discretion, its schedules of operations and, as a consequence, may require that Licensee to change its licensed trips so that they neither conflict with those of the Authority nor cause undue congestion in Oak Bluffs Harbor, Vineyard Haven Harbor or any harbors, bays or waters traveled by the Authority's vessels.

9. Compliance with All Applicable Laws and Regulations.

Licensee warrants that the Vessels shall be operated with all necessary permits, licenses and approvals of federal, state and local authorities necessary for the operation of the Vessels and the provision of the Services, and that the Vessels shall be operated in compliance with all applicable laws and regulations, including but in no way limited to all laws and regulations pertaining to:

- (a) the prohibition of any discharge of any sewage, whether treated or not, in designated "no discharge zones" and, with respect to the operation of the Vessels in other waters, the installation and operation of marine sanitation devices to prevent pollution due to the discharge of waste into the water; and
- (b) the carrying of an appropriate amount of lifesaving and firefighting equipment on the Vessels.

Licensee also warrants that it shall conform to such instructions given by the harbor master of each port served by the Vessels with respect to the Vessels' speed and operation, having due regard for the safety of the public and the use of the water by others. Licensee also warrants that the Vessels shall be accessible to, functional for, and safe for use by physically handicapped persons; that no person shall be permitted to smoke in or upon the Vessels, in accordance with the provisions of section 43A of chapter 272 of the Massachusetts General Laws; and that the Vessels shall be outfitted with a sufficient number of life floats or buoyant apparatuses for all persons on board.

10. Termination of Agreement for Cause.

This Agreement and the license issued hereunder may be terminated by the Authority at any time for cause. Cause shall include but in no way be limited to:

- (a) Any material breach by Licensee of any of its obligations under this Agreement;
- (b) Any assignment by Licensee, or the execution of any trust indenture and security agreement or similar instrument, for the benefit of creditors;
- (c) A filing by Licensee of any petition for bankruptcy or reorganization;
- (d) A filing of any petition against Licensee for its adjudication as bankrupt, if such petition is not dismissed within thirty (30) days after its filing;
- (e) A declaration that Licensee is insolvent according to law;
- (f) An appointment of a receiver or similar officer to take care of any of Licensee's property;

- (g) The taking of any property used by Licensee in connection with the Services on execution or by other process of law;
- (h) The failure by Licensee, for a period of ten (10) days after notice thereof, to keep, perform and observe each and every promise, covenant and agreement contained herein on its part to be kept, performed or observed;
- (i) An interruption of the Services for any reason for a period of thirty (30) consecutive days; and/or
- (j) A determination by a court of competent jurisdiction or an appropriate regulatory governmental agency that the Services are in any way unauthorized by, or in violation of, any provision of law or any regulation promulgated thereunder.

The waiver of, or failure to exercise, the rights so to terminate this Agreement in the event of any event or events constituting cause for termination shall not impair or prejudice, or be, or be construed as, a waiver of the right so to terminate this Agreement in the event of any subsequent event or events constituting cause for termination.

11. Cessation of the Services upon the Agreement's Termination.

Within ten (10) days after service of written notice by the Authority of the termination of this Agreement and the license issued hereunder for cause pursuant to the provisions of Article 10, Licensee shall cease providing the Services and also shall cease all other actions licensed and permitted by this Agreement. In addition, upon receipt of written notice by the Authority of its termination of this Agreement and the license issued hereunder pursuant to the provisions of Article 5 and/or Article 8, Licensee immediately shall cease providing the Services and also shall immediately cease all other actions licensed and permitted by this Agreement. In the event of any termination of this Agreement under the provisions of Article 5 and/or Article 8 and/or Article 10, Licensee agrees that:

- (a) It shall have no remedy at law or in equity against the Authority or its Members for specific performance of this Agreement or the license issued hereunder;
- (b) The Authority will be irreparably harmed by any continuation of the Services by Licensee and/or the continuation by Licensee of any other actions licensed or permitted by this Agreement;
- (c) The Authority will be entitled to equitable and injunctive relief restraining and prohibiting any continuation of the Services by Licensee and/or the continuation by Licensee of any other actions licensed or permitted under this Agreement and/or any operation of the Vessels between the mainland of The Commonwealth and the island of Nantucket, or between the mainland of The Commonwealth and the island of Martha's Vineyard, or between said islands, except as otherwise permitted under Section 5 of the Authority's enabling act, chapter 701 of the Acts of 1960, as

amended, or another License Agreement entered into between the Authority and Licensee.

Further, any remaining reports due from Licensee and any remaining amounts payable by Licensee shall be due and payable within seven (7) days of said termination and all other obligations of the parties shall cease.

12. Assignments.

Neither this Agreement, nor the license issued hereunder, nor any rights created thereby, may be assigned by either party without the consent of the other, and no assignment by operation of law shall be effective without such consent.

13. Notices and Communications.

Any and all notices and communications required by or in any way connected with or related to this Agreement shall be in writing and shall be deemed to have been duly served when hand delivered or sent via email or, if mailed by certified or registered mail, two business days after being so mailed, as the case may be, addressed as follows:

If to the Authority, to

Robert B. Davis, General Manager
Woods Hole, Martha's Vineyard and Nantucket Steamship Authority
P.O. Box 284
Foot of Railroad Avenue
Woods Hole, Massachusetts 02543
rdavis@steamshipauthority.com

If to Licensee, to

Jack Bevins, VP
SeaStreak, LLC
2 First Avenue
Atlantic Highlands, NJ 07716
Jack.Bevins@SeaStreak.com

with copy to:

Thomas M. Wynne, General Counsel
2 First Avenue
Atlantic Highlands, NJ 07716
Thomas.Wynne@SeaStreak.com

Either party may, by notice to the other given as herein required, designate a different and one additional address for the purpose of said notices and communications.

14. Reimbursement of the Authority's Expenses.

Licensee shall reimburse the Authority for any expenses which the Authority incurs that are the Licensee's responsibility under this Agreement. Bills for reimbursement may be submitted weekly, and payment shall be made on or before the seventh day following receipt by Licensee of any bill submitted in accordance herewith. Such expenses include but are in no way limited to any towing expenses incurred by the Authority for the Vessels, reasonable expenses incurred by the Authority on account of the Vessels' delayed arrival or departure, and expenses incurred by the Authority at the request of Licensee. Such expenses, however, shall not include increased overhead which cannot directly be attributed to the Services or the Authority's costs of administering the license, except to the extent provided for under Article 16.

15. No Responsibility of the Authority to Perform Any Services.

The Authority shall have no responsibility to perform any services in connection with the operation of the Vessels, or in connection with the Services. Nothing in this Agreement shall in any way be construed as or constitute a partnership or joint venture between the parties hereto or shall in any way impose upon the Authority any obligations or liability for the debts, conduct or obligations of Licensee. All persons employed by Licensee in the performance of the Services shall be employees of Licensee, and not of the Authority, and they shall be subject to the exclusive control and direction of Licensee. Licensee shall not, in advertising or other promotional activities, or in any other actions or activities in connection with the Services, contract in the name of the Authority or suggest that the Authority in any way provides or is responsible for the Services.

16. Indemnification Provisions.

Licensee expressly agrees to indemnify, hold harmless, reimburse and defend the Authority at all times against any claims, costs, expenses, liabilities, obligations, losses and/or damages (including, but not limited to, legal fees incurred in connection therewith) of any nature, incurred by or imposed upon the Authority which results, arises out of or is based upon:

- (a) any misrepresentation made by Licensee in this Agreement or in any document submitted by Licensee to the Authority in connection herewith;
- (b) any material breach by Licensee of any of its obligations under this Agreement; and/or

- (c) any failure by Licensee to keep, perform and observe each and every promise, covenant and agreement contained herein on its part to be kept, performed or observed.

17. Insurance Requirements.

Licensee agrees to procure and maintain public liability insurance coverage during the term of this Agreement with a limit of no less than \$2,000,000 per occurrence, combined single limit for bodily injury and property damage. A certified copy of each policy, or a certificate evidencing the existence thereof, shall be delivered to the Authority within ten (10) days after the execution of this Agreement. Licensee also warrants that it shall report to the Authority in writing all accidents in which it is involved resulting in loss of life or serious personal injury or considerable property damage promptly after their occurrence.

18. Express Limitation on the Term of the Agreement.

Licensee expressly agrees that nothing in this Agreement, whether standing alone or in combination with other events, agreements, instruments, documents or understandings, entitles Licensee to any extension of the Services beyond October 31, 2020, and that the Authority shall in no way be obligated to license Licensee to operate any transportation service after October 31, 2020. Any license for services subsequent to October 31, 2020 may be granted only by an instrument of equal formality signed by the duly authorized representatives of the respective parties.

19. Licensee's Compliance with Tax Laws.

Licensee agrees that during the term of this Agreement it shall comply with all laws of The Commonwealth of Massachusetts relating to taxes, the reporting of employees and contractors, and the withholding and remitting of child support.

20. Governing Law and Interpretation.

A. This Agreement shall be governed by and interpreted under the laws of The Commonwealth of Massachusetts.

B. In computing any period of time prescribed or allowed by this Agreement, the day of the act, event or default after which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday. As used in this Agreement, "legal holiday" includes those days specified in Mass. G.L. c. 4, § 7, and any other day appointed as a holiday by the President or the Congress of the United States or designated by the laws of the Commonwealth.

21. Agreement Reflects Entire Understanding of the Parties.

The making, execution and delivery of this Agreement by the parties have been induced by no statements, representations, warranties, understandings or agreements other than those herein expressed. This Agreement embodies the entire understanding of the parties and there are no further or other agreements or understandings, written or oral, in effect between the parties, relating to the subject matter hereof. This Agreement may be amended or modified only by an instrument of equal formality signed by the duly authorized officer of the respective parties.

IN WITNESS WHEREOF, the parties have executed this Agreement under seal as of the date hereinabove set forth.

WOODS HOLE, MARTHA'S VINEYARD AND
NANTUCKET STEAMSHIP AUTHORITY
(the "Authority")



Witness

By: 

Robert B. Davis, General Manager

SEASTREAK, LLC
("Licensee")



Witness

By: 

Jack Bevins, Vice President

CERTIFICATION BY LICENSEE


I, Jack Bevins, Vice President of SeaStreak , LLC, the Licensee named herein, hereby certify under the penalties of perjury, to the best of my knowledge, information and belief, that:

1. Licensee has not given, offered or agreed to give any person, corporation or other entity any gift, contribution or offer of employment as an inducement for, or in connection with, the award of this Agreement.
2. No person, corporation or other entity, other than a bona fide full time employee of the Licensee, has been retained or hired by Licensee to solicit for or in any way assist Licensee in obtaining this Agreement upon an agreement or understanding that such person, corporation or other entity be paid a fee or other consideration contingent upon the award of this Agreement to Licensee.

3. No Member, employee or agent of the Authority shall be in the employ of, or be in any way, directly or indirectly, financially interested in any partnership, corporation or association having any financial transactions connected with this Agreement.
4. pursuant to Mass. G.L. c. 7, §22C, the Licensee does not employ ten or more employees in an office or other facility located in Northern Ireland or, if it does so employ ten or more employees there, (a) it does not discriminate in employment, compensation or the terms, conditions and privileges of employment on account of religious or political beliefs; (b) it promotes religious tolerance within the work place and the eradication of any manifestations of religious and other illegal discrimination.
5. pursuant to St. 1990, c. 521, §7, as amended by St. 1991, c. 329, the Licensee does not have fifty or more employees or, if it does employ fifty or more employees, it has established a dependent care assistance program or a cafeteria plan whose benefits include a dependent care assistance program or it offers child care tuition assistance or on-site or near-site subsidized child care placements.
6. pursuant to G.L. c. 151A, § 19A(b), the Licensee has complied with all laws of the Commonwealth of Massachusetts relating to contributions to the Massachusetts Unemployment Fund and payments in lieu of such contributions.
7. pursuant to G.L. c. 62C, §49A, that the contractor has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.
8. This Agreement has been entered into in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity or group of individuals.



Witness



Jack Bevins

EXHIBIT A

SCHEDULE OF LICENSED TRIPS

Licensee shall operate on one or more published schedules of licensed trips during the summer season of each year of this Agreement. However, such schedules are subject to the Authority's advance approval. Therefore, before the publishing or operation of any schedule of licensed trips for a particular year of this Agreement, Licensee must submit the schedule to the Authority and the Authority must approve such schedule.

- With respect to Licensee's passenger ferry service between New Bedford and Martha's Vineyard, the "summer season" means from mid-May through mid-October, but the Licensee's schedule of licensed trips arriving or departing from Oak Bluffs shall not begin before, or extend beyond, the period of time each year that the Authority's Oak Bluffs terminal is open.
- With respect to Licensee's passenger ferry service between New Bedford and Nantucket, the "summer season" means from mid-to-late May through early-to-mid-October.

With respect to the 2018 summer season, the parties acknowledge and agree that Licensee has submitted to the Authority the attached schedules of licensed trips and that the Authority has approved them.

The Authority from time to time may require Licensee to change its licensed trips so that they neither conflict with those of the Authority nor cause undue congestion in Oak Bluffs Harbor, Vineyard Haven Harbor, Nantucket Harbor, or any other harbors, bays or waters traveled by the Authority's vessels.

The Authority and Licensee also acknowledge that the above schedules (including but not limited to the sailing times of particular trips) are subject to change in accordance with the provisions of Article 2 and Article 8 of this Agreement.



Proposed 2018 NB/MV/ACK Shoulder Season Schedule

5/14/2018 - 6/18/2018

DEPART NEW BEDFORD	ARRIVE OAK BLUFFS	DEPART OAK BLUFFS	ARRIVE NANTUCKET	DEPART NANTUCKET	ARRIVE OAK BLUFFS	DEPART OAK BLUFFS	ARRIVE NEW BEDFORD
6:30 AM	7:30 AM	7:45 AM	xxx	xxx	xxx	xxx	8:45 AM
9:00 AM	10:00 AM	10:15 AM	11:15 AM	11:30 AM	12:30 PM	12:45 PM	1:45 PM
2:00 PM	3:00 PM	3:15 PM	4:15 PM	4:30 PM	5:30 PM	5:45 PM	6:45 PM

** Please note we will need to incorporate a Memorial Day Schedule (possibly 141?) **

*** Please also note this service will be point of point only and will not provide passengers an inter-island service ***

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Proposed Martha's Vineyard Schedule 6.18.18 through 9.3.18

DEPART NEW BEDFORD	ARRIVE OAK BLUFFS	DEPART OAK BLUFFS	ARRIVE NEW BEDFORD
6:30 AM	7:30 AM	7:45 AM	8:45 AM
9:00 AM	10:00 AM	10:15 AM	11:15 AM
11:30 AM	12:30 AM	12:45 PM	1:45 PM
2:00 PM	3:00 PM	3:15 PM	4:15 PM
4:30 PM	5:30 PM	5:45 PM	6:45 PM
7:00 PM	8:00 PM	8:15 PM	9:15 PM
** 9:30 PM	** 10:30PM	** 10:35 PM	**11:35PM

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Proposed Nantucket Operating Schedule 6.18.18 through 9.3.18

WEEKDAY (MONDAY - THURSDAY)

DEPART NEW BEDFORD	ARRIVE NANTUCKET	DEPART NANTUCKET	ARRIVE NEW BEDFORD
8:30 AM	10:35 AM	11:00 AM	1:05 PM
3:40 PM	5:45 PM	6:00 PM	8:05 PM

WEEKEND (FRIDAY - SUNDAY)

DEPART NEW BEDFORD	ARRIVE NANTUCKET	DEPART NANTUCKET	ARRIVE NEW BEDFORD
8:00 AM	10:05 AM	10:30 PM	12:35 PM
1:00 PM	3:05 PM	3:30 PM	5:35 PM
6:00 PM	8:05 PM	8:30 PM	10:35 PM

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Proposed 2018 NB/MV/JACK Shoulder Season Schedule

9/4/2018 - 10/8/2018

DEPART NEW BEDFORD	ARRIVE OAK BLUFFS	DEPART OAK BLUFFS	ARRIVE NANTUCKET	DEPART NANTUCKET	ARRIVE OAK BLUFFS	DEPART OAK BLUFFS	ARRIVE NEW BEDFORD
6:30 AM	7:30 AM	7:45 AM	xxx	xxx	xxx	xxx	8:45 AM
9:00 AM	10:00 AM	10:15 AM	11:15 AM	11:30 AM	12:30 PM	12:45 PM	1:45 PM
2:00 PM	3:00 PM	3:15 PM	4:15 PM	4:30 PM	5:30 PM	5:45 PM	6:45 PM

** Please note we will need to incorporate a Columbus Day Schedule (possibly 1417) **

*** Please also note this service will be point of point only and will not provide passengers an Inter-island service ***

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HOLIDAY SCHEDULE

MEMORIAL DAY 5/25/2018 - 5/28/2018
4th OF JULY 7/4/2018
LABOR DAY 9/3/2018
COLUMBUS DAY 10/6/2017 - 10/8/2018

MARTHA'S VINEYARD

DEPART NEW BEDFORD	ARRIVE OAK BLUFFS	DEPART OAK BLUFFS	ARRIVE NEW BEDFORD
6:30 AM	7:30 AM	7:45 AM	8:45 AM
9:00 AM	10:00 AM	10:15 AM	11:15 AM
11:30 AM	12:30 AM	12:45 PM	1:45 PM
2:00 PM	3:00 PM	3:15 PM	4:15 PM
4:30 PM	5:30 PM	5:45 PM	6:45 PM
7:00 PM	8:00 PM	8:15 PM	9:15 PM

NANTUCKET

DEPART NEW BEDFORD	ARRIVE NANTUCKET	DEPART NANTUCKET	ARRIVE NEW BEDFORD
8:00 AM	10:05 AM	10:30 PM	12:35 PM
1:00 PM	3:05 PM	3:30 PM	5:35 PM
6:00 PM	8:05 PM	8:30 PM	10:35 PM

EXHIBIT B

LICENSE AND ACCESS FEE SCHEDULE

I. Fees for the Use of the Authority's Facilities.

A. Use of the Authority's Facilities in connection with Licensee's New Bedford-Martha's Vineyard Service.

For the use of the Authority's Oak Bluffs and Vineyard Haven Facilities described in the Dockage Facilities Agreement (Exhibit C to the License Agreement) in connection with Licensee's seasonal passenger transportation service between New Bedford and Martha's Vineyard, Licensee shall pay the Authority Five Thousand Dollars (\$5,000.00) per month (including for the use of the areas inside the Oak Bluffs and Vineyard Haven terminal buildings described in Paragraph 14 thereof). Such amount shall be due and payable monthly on the fifteenth (15th) day of each month; provided, however, that Licensee shall not be obligated to pay the Authority the above amount for any month during which Licensee is not providing the aforesaid service to or from the Authority's Facilities.

B. Use of the Authority's Facilities in connection with Licensee's New Bedford-Nantucket Service.

For the use of the Authority's Nantucket Facilities described in the Dockage Facilities Agreement (Exhibit C to the License Agreement) in connection with Licensee's seasonal passenger transportation service between New Bedford and Nantucket (including for the use of the area inside the Nantucket terminal building described in Paragraph 14 thereof), Licensee shall pay the Authority One Hundred Dollars (\$100.00) for each docking at the Facilities by one of the Vessels. Such amounts shall be due and payable on the fifteenth (15th) day of the following month.

C. Use of the Authority's Facilities in connection with the User's New York-Massachusetts Service.

For the use of the Authority's Facilities described in the Dockage Facilities Agreement (Exhibit C to the License Agreement) in connection with the User's seasonal passenger transportation service between New York and Massachusetts, the User shall pay the Authority a dockage fee as follows:

1. For use of the Authority's Oak Bluffs or Vineyard Haven Facilities, the User shall pay the Authority a "per passenger" fee based on an escalating percentage of the Authority's average revenue per passenger on the Authority's Martha's Vineyard route for the previous calendar year (the "Fee Base"), as follows:

- (a) 20% of the Fee Base for each passenger carried by Licensee on a one-way basis between New York City (or any other location outside the Commonwealth of Massachusetts) and Martha's Vineyard up to 1,000 passengers per year; and
- (b) 25% of the Fee Base for each passenger carried by Licensee on a one-way basis between New York City (or any other location outside the Commonwealth of Massachusetts) and Martha's Vineyard in excess of 1,000 passengers per year and up to 5,000 passengers per year; and
- (c) 30% of the Fee Base for each passenger carried by the User on a one-way basis between New York City (or any other location outside the Commonwealth of Massachusetts) and Martha's Vineyard in excess of 5,000 passengers per year.

The term "average revenue per passenger on the Authority's Martha's Vineyard route for the previous year," also known as the "Fee Base," is equal to the sum of all of the Authority's passenger fares, concession and parking revenues derived from the Martha's Vineyard route during the previous calendar year, divided by the total number of passengers carried by the Authority on that route during that calendar year.

- 2. For use of the Authority's Nantucket Facilities, the User shall pay the Authority One Hundred Fifty Dollars (\$150) for each docking plus Two Dollars (\$2.00) per passenger carried.

The amounts for each docking shall be due and payable on the fifteenth (15th) day of the following month, together with the User's written report of the number of passengers who disembarked from or boarded the vessel(s) at each of the Facilities on a trip-by-trip basis.

D. Additional Fees for the Use of the Facilities.

In addition to the payments described in A and B above, Licensee shall reimburse the Authority for any additional payroll costs it incurs for providing personnel at the Facilities outside of the Facilities' normal operating hours, and potable water can also be provided in accordance with the Authority's published tariffs.

II. License Fees for Passengers Carried on the Vessels.

For each calendar year during the term of this Agreement beginning January 1, 2015, the Licensee shall be required to pay the following per-passenger license fees in connection with the Services:

A. Passenger Ferry Service between New Bedford and Martha's Vineyard.

- (1) 5% of the Authority's "average revenue per passenger for its Martha's Vineyard route the previous year" for each passenger carried by the Licensee on a one-way basis between New Bedford and Martha's Vineyard up to 30,000 per year;
- (2) 10% of the Authority's "average revenue per passenger for its Martha's Vineyard route the previous year" for each passenger carried by the Licensee on a one-way basis between New Bedford and Martha's Vineyard in excess of 30,000 but no more than 60,000 per year;
- (3) 15% of the Authority's "average revenue per passenger for its Martha's Vineyard route the previous year" for each passenger carried by the Licensee on a one-way basis between New Bedford and Martha's Vineyard in excess of 60,000 but no more than 90,000 per year;
- (4) 20% of the Authority's "average revenue per passenger for its Martha's Vineyard route the previous year" for each passenger carried by the Licensee on a one-way basis between New Bedford and Martha's Vineyard in excess of 90,000 but no more than 120,000 per year; and
- (5) 25% of the Authority's "average revenue per passenger for its Martha's Vineyard the previous year" for each passenger carried by the Licensee on a one-way basis between New Bedford and Martha's Vineyard in excess of 120,000 per year.

B. Passenger Ferry Service between New Bedford and Nantucket.

- (1) 5% of the Authority's "average revenue per passenger for its Nantucket route the previous year" for each passenger carried by the Licensee on a one-way basis between New Bedford and Nantucket in excess of 15,000 but no more than 25,000 per year;
- (2) 10% of the Authority's "average revenue per passenger for its Nantucket route the previous year" for each passenger carried by the Licensee on a one-way basis between New Bedford and Nantucket in excess of 25,000 but no more than 35,000 per year; and

- (3) 25% of the Authority's "average revenue per passenger for its Nantucket route the previous year" for each passenger carried by the Licensee on a one-way basis between New Bedford and Nantucket in excess of 35,000 per year.

C. The Authority's Average Revenue per Passenger.

The term "average revenue per passenger" for the Authority's Martha's Vineyard route or its Nantucket route the previous year is equal to the sum of all of the Authority's passenger, concession and parking revenues derived from the Martha's Vineyard route or the Nantucket route, as the case may be, during the previous calendar year, divided by the total number of passengers carried by the Authority on that route during that calendar year.

EXHIBIT C

DOCKAGE FACILITIES AGREEMENT

AGREEMENT made this seventeenth (17th) day of October, 2017, by and between the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority, a public instrumentality of The Commonwealth of Massachusetts organized and existing pursuant to the Acts of 1960, c. 701, as amended, with offices located at the Foot of Railroad Avenue, Woods Hole, Massachusetts 02543 (hereinafter referred to as the "Authority") and SeaStreak, LLC, with offices located at 2 First Avenue, Atlantic Highlands, New Jersey 07716 (hereinafter referred to as the "User").

WITNESSETH:

WHEREAS, the Authority owns, and User desires use of, the dock and/or wharf facilities located in Oak Bluffs, Massachusetts, Vineyard Haven (Tisbury), Massachusetts, and Nantucket, Massachusetts (hereinafter collectively referred to as the 'Facilities');

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the parties hereto agree as follows:

1. Subject to the provisions of this Agreement, the Authority agrees to allow the User to make use of the Facilities, and the User may use said Facilities, for the following purposes:
 - (a) to berth the Vessel(s) on the date(s) and time(s) set forth in Exhibit A, entitled "Schedule of Licensed Trips," of the License Agreement entered into between the parties this same date and on the further conditions set forth herein; and also
 - (b) to berth its SeaStreak or Commodore class vessel(s) for no longer than one-half hour between agreed-upon times on any Thursday and/or Friday during the summer seasons of 2018, 2019 and 2020, for the sole purpose of allowing passengers on the vessel who boarded the vessel outside of the Commonwealth of Massachusetts to disembark onto and pass through the Facilities (together with their luggage), and for no longer than one-half hour between agreed-upon times on any Sunday (or Monday on a holiday weekend) during those summer seasons, for the sole purpose of allowing passengers traveling beyond the Commonwealth of Massachusetts (and no other passengers) to pass through the Facilities and board the vessel (together with their luggage) on the further conditions set forth herein.

Additional times or dates must be approved in writing by the Authority. The Authority does not guarantee the availability of the Facilities, except as provided herein, without prior written approval.

2. It is hereby agreed by the Authority and the User that the charges for the use by the User of the Facilities during the dates and times set forth in Paragraph 1 are set forth in the License and Access Fee Schedule attached as Exhibit B to the Agreement entered into between the parties this same date and are payable as set forth in Article 5 of that Agreement and subject to the terms and provisions thereof. Any use of the Facilities by the User on additional dates and times than those provided for in Paragraph 1 are subject to additional charges.

3. The parties expressly recognize that the Authority does not wish to create a priority right in anyone other than the Authority to use the Facilities or other property owned by the Authority. Accordingly, the Authority, in its sole discretion but taking into account the need to minimize disruption to the User's operations, will determine what berthing position is available for the User at its Facilities, may change the User's berthing position at any time and as many times as the Authority deems necessary or convenient to the Authority's operations, and generally will control all traffic at its Facilities. The Authority also reserves the right to refuse wharfage or dockage services to the User in any circumstances where, in the judgment of the Authority, the vessel(s) may damage the wharf or impede the operation of the terminal or operations or schedules of the Authority, or if it is carrying cargo which (a) may endanger or damage the Authority's property, employees and/or passengers, or (b) is considered incompatible with the operation of a passenger terminal.

4. It is understood and agreed that this Agreement may be terminated at the option of the Authority in the event of a material breach of any of the terms of this Agreement and the failure by the User to correct such breach within seventy-two (72) hours from receipt by the User of a written notice from the Authority setting forth the specific violation.

5. In the event the User is prevented by the Authority from using the Facilities, or in the event the Authority fails to provide the User with adequate dockage space, or in the event the Facilities are destroyed or damaged by fire, hurricane, storm or other forces, or in the event the Facilities are unfit for use or otherwise unavailable due to construction in progress or any other reason, the charges set forth in Paragraph 2 shall be suspended or abated, as the User's sole remedy, in a just proportional part thereof, until the Facilities have been restored to a safe and proper condition and available for use by the User.

6. The User shall not assign the use of the Facilities to any other party on the dates set forth in Paragraph 1 without the Authority's express written consent.

7. The User shall move the vessel(s) at any time upon request of Authority personnel to such place(s) as the Authority reasonably directs at the expense of the User. A vessel when moored at a pier shall have on board at all times sufficient personnel to move such vessel. In addition, the User:

- (a) shall have sufficient personnel at the Facilities during such times designated by the Authority both prior to the scheduled arrival of any vessel and while the vessel is docked at the Facilities, and
- (b) shall promptly inform the Authority of the cancellation of any trips of any of the User's vessels scheduled to arrive at the Facilities, as well as any material delay in the scheduled arrival of any such vessel,

so that the Authority may respond to inquiries from the public and address any potential operational issues.

8. Neither the Authority nor any of its Members, officers, agents or employees shall be responsible for any loss, damage or injury caused to any vessels, passengers or persons, or to any cargo or any other property in or upon a vessel, or moving or being moved over, in, through, or under, or while on or upon, any wharf or other structure or property owned, controlled, or operated by the Authority, resulting from any cause whatsoever, including but not limited to loss, damage or injury which in any manner is caused by or results from the following: theft, pilferage, animals including rats, mice and other rodents, birds, insects including moths and weevil, shrinkage, waste, seepage, leaking containers, heating, evaporation, fire or extinguish-ment thereof, explosion, leakage, discharge from fire protection systems, dampness, rain, floods, freezing, frost or other actions of the elements or acts of God, collapse of walls, piers or other structures, breakdowns of plant, machinery or equipment, floats, logs or pilings required to breast a vessel away from wharves, sabotage, insurrection, revolution or war, riot or strikes, or any combination of the foregoing.

9. The User agrees to indemnify and save harmless the Authority from and against:

- (a) all losses, claims, demands and suits for damages arising out of the User's operations on the property of the Authority and the use of the Facilities, including without limiting the generality of the foregoing claims for loss, damage or injury described in Paragraph 8 hereof, claims by the User's employees or by the employees of others providing goods or services in connection therewith for or under contract with the User, or by workers' compensation insurers (sometimes called "third-party actions"), and claims by passengers and claims for damage to property of the Authority or other persons caused by the discharge of oil or other pollutants or hazardous substances, whether accidental or otherwise, and the results of such discharge, such as fire; and
- (b) all reasonable costs and expenses, including reasonable attorney's fees, incurred in connection therewith,

except such as arise solely from the negligence, gross negligence or willful and wanton acts of the Authority or its employees and agents.

10. The User agrees to procure and maintain protection and indemnity coverage, with a dockage rider, during the term of this Agreement with a limit of no less than \$5,000,000 per occurrence, combined single limit for bodily injury and property damage. The User agrees to use commercially reasonable efforts to have the Authority named as an additional insured. A certified copy of each policy, or a certificate evidencing the existence thereof, shall be delivered to the Authority prior to any use of the Facilities by the User.

11. Rubbish, dunnage, pallets, bands, loading equipment or other materials, machinery, equipment or supplies of any kind caused by or derived from the User's use of the Facilities hereunder must be removed from the piers, wharves and other areas within the confines of the Authority's property by the person or persons placing it there upon request by Authority personnel. Such person or persons shall be responsible for any costs and expenses of removal incurred by the Authority. No rubbish, refuse, oil pollutants or other materials or substances of any kind shall be dumped overboard from any vessel while docked at the Facilities or from the Facilities themselves. The parties agree that all so-called "dolly" freight carried by the User on its Vessel shall be immediately transferred to or from (as the case may be) a van or other suitable vehicle in a safe and efficient manner while the Vessel is docked at the Facilities so that the User's freight business does not interfere with the Authority's operations and does not result in such freight being left at the Facilities at any time.

12. Without limiting the generality of the foregoing, the User shall be responsible for any violation of law caused by the User or any person providing goods or services to the User, including without limiting the generality of the foregoing stevedores, truckers, charter parties and independent contractors. The User also acknowledges and agrees that the Authority is giving no warranty, express or implied, as to the condition, quality, fitness for any particular purpose, or any other aspect of the Facilities, and that the Authority shall be in no way responsible for their proper use by User. The User further agrees that it shall be using the Facilities on an "as is" basis and shall be solely responsible for ensuring that the Facilities shall be used by the User with all necessary permits, licenses and approvals of federal, state and local authorities necessary for the use of the Facilities by the User, and that the User shall use the Facilities in compliance with all applicable laws and regulations, including but in no way limited to all applicable regulations promulgated under the Americans with Disabilities Act and by the Massachusetts Architectural Access Board (including but not limited to such regulations regarding transportation terminals (521 CMR 18) as may be applicable to the User's operations).

13. It is acknowledged by the User that it is the statutory responsibility of the Authority to provide adequate transportation of persons and necessities of life for the islands of Martha's Vineyard and Nantucket. It is also acknowledged by the User that the Authority from time to time may change, in its sole discretion, its schedule of operations with the consequence that the User will be required to change its schedule so as not to conflict with that of the Authority.. It is further acknowledged by the User that the Authority from time to time may have to close certain of the Facilities for purposes of maintenance, repair or other reasons, and that such closing shall not be deemed a breach of this Dockage Facilities Agreement by the Authority, but shall provide the

User, as its sole remedy under this Agreement, the right to terminate this Agreement; provided, however, that the User may have other rights and remedies available to it under other agreement(s) entered into with the Authority to provide passenger service between New Bedford and Martha's Vineyard, including the right to be indemnified by the Authority for the User's damages arising as a result thereof under the terms of the agreement executed this same day between the same parties and to which this Agreement is attached as Exhibit C, and this provision in this Agreement does not in any way limit or preclude those other rights and remedies.

14. The Authority shall also make available to the User:

- (a) An area inside the Authority's Oak Bluffs terminal building suitable for selling tickets to the User's customers, which area might only consist of three to four linear feet of counter space with sufficient room for a computer, credit card machine, telephone and fax machine;
- (b) An area inside the Authority's Vineyard Haven terminal building suitable for selling tickets to the User's customers, which area shall have dimensions of approximately six feet by six feet sufficient for a computer, credit card machine, telephone and fax machine; and
- (c) An area inside the Authority's Nantucket terminal building suitable for selling tickets to the User's customers, which area might only consist of three to four linear feet of counter space with sufficient room for a computer, credit card machine, telephone and fax machine.


The User shall be responsible for all costs and expenses incurred by the Authority to prepare and maintain the above areas for the User's use, as well as all costs and expenses associated with the User's use of the above areas. In this regard, the User shall be responsible for all costs associated with the installation and maintenance of any telephone and other communication lines used by the User, and also will be responsible for an allocated portion of each terminal's utilities and janitorial expenses based upon a mutually agreed formula. The User shall not use either area for any purpose other than to sell tickets to the User's customers for the Services licensed by the Agreement entered into between the parties on this same date, unless authorized in advance by the Authority in writing.

15. This Agreement contains the full, complete and entire understanding between the parties hereto with respect to the subject matter hereof, and there are no representations, covenants or agreements between the parties hereto which are not contained herein. This Agreement may not be orally amended and any amendment or modification of this Agreement shall be effective only if in writing executed by both of the parties hereto.

16. This Agreement shall be interpreted in accordance with the laws of The Commonwealth of Massachusetts.


IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the year, month and day first above written.

SEASTREAK, LLC

By: 

Jack Beyins
Vice President

WOODS HOLE, MARTHA'S VINEYARD AND
NANTUCKET STEAMSHIP AUTHORITY

By: 

Robert B. Davis,
General Manager